CF0000058286

Cr.A. 357/95 (2)

Division Bench (Criminal)

/- APPEAL OF PRISONER -/

No. 56 Name कमडी ऐगली

Father's Name गेंगडू Residence गाव - गोंगला
थाना - कुंगा

Age 30/- Sentenced to आजीवन कारावास on

19.8.94 under Section 302, 307 by Ill. A.S.J. Jagdalpur.

S.T.No. 268/93

It is explained to the prisoner that if he states or Wishes to be represented by a legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear with the seven days he may be heard at all if the prisoner states that the does not wish to be represented by legal practioner the Court may proceed at once with the case and will not be obliged to give a hearing to any legal proctitioner who should appear.

1. Date of application for copy of Judgement :
2. Date of which copy received :- 17.11.94
3. Date on which Appelisent :- 27.11.94
4. Whether the prisoner wished to be represented or not Yes/~~No~~.

No. 56 Name कमडी ऐगली पि.गेंगडू

Continued in जिला Jail प्रधानसेवी जगदलपुर

No. 634/Octagon-94 Dated 28.11.94

Forwarded to the CHIEF JUDICIAL MAGISTRATE
together with a copy of judgement or order passed in the case for favour of transmission to the proper Appliate Court.

Superintendent Central/Distt./
Sub Jail.

Date of receipt in C.J.M's Office. 30.11.94

Date of receipt of record of accompany. —

Memo of Appeal of the Appelliate Court. —

No. 38 Dated 30.11.94

Forwarded to the Hon'ble Sessions Judge Jagdalpur.

C.J. Magistrate

Date of receipt of Appelliate Court.

(12)

II-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक CG.A.357/95 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench: -

Hon'ble Mr. L.C. Bhadoo and
Hon'ble Mr. Dhirendra Mishra, JJ.

6-2-2006

Mr. M.P.S. Bhatia, counsel for the appellant.

Mr. U.N.S. Deo, Additional Public Prosecutor for the State/respondent.

Oral judgment dictated on *Dais*.

Per L.C. Bhadoo, J: -

By this appeal under Section 374 (2) of the Cr.P.C. the appellant has questioned the legality of the judgment of conviction and order of sentence dated 19-8-1994 passed by the 3rd Additional Sessions Judge, Jagdalpur, in Sessions Trial No.268/93, whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of offence under Sections 302 & 307 of the I.P.C. sentenced him to undergo imprisonment for life, and to undergo R.I. for three years and pay a fine of Rs.500/-, in default of payment of fine to further undergo imprisonment for five months, respectively.

The prosecution case, in brief, is that Pardeshiram Nag (PW-1) gave merg intimation Ex.P-2 to Police Station: Sukma on 11-3-1993 at 2155 hours that, on that day at about 1700 hours the accused attacked his sister Lali on the neck with sickle as a result of which her neck was cut and blood was oozing out of the neck. Receiving this report, the Station House Officer, Police Station: Sukma registered the F.I.R. (Ex.P-1), left for the scene of occurrence and after giving notice (Ex.P-3) to the Panchas, prepared the Panchnama (Ex.P-4) of the dead body of Lali. While in police custody, the accused gave memorandum Ex.P-5 and in pursuance of that, the sickle was

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक G.A.357/95 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

taken into possession under Ex.P-6. Plain soil and blood stained soil were taken into possession from the place of occurrence under Ex.P-8. Blood stained clothes of the accused were taken into possession under Ex.P-9. Clothes of Lali were taken into possession under Ex.P-10. The dead body of Lali was sent for post-mortem examination to Primary Health Center, Sukma, where Dr. R.K. Kuruvanshi (PW-12) & Dr. P.K. Thakur conducted post-mortem on the body of Lali and prepared the post-mortem report Ex.P-16. Injuries of Magamma were examined by Dr. R.K. Kuruvanshi and he prepared the injury report Ex.P-17.

After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate, First Class, Sukma, who in turn committed the case to the Sessions Judge, Jagdalpur, from where, learned 3rd Additional Sessions Judge, received the case on transfer for trial.

The prosecution in order to establish charge against the accused examined 12 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence appearing against him and stated that he is innocent and has been falsely implicated in the crime.

After hearing the arguments of A.G.P. and counsel for the accused, learned Additional Sessions Judge convicted and sentenced the accused as mentioned in para 1 of this judgment.

The homicidal death of Lali is not in dispute. Even the injuries sustained by Magamma are also not in dispute.

As far as involvement of the accused/appellant in committing the murder of his wife Lali and attempting to commit the murder of his mother

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक G.A.357/15 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Magamma is concerned, Pardeshiram Nag (PW-1), brother of the deceased, who lodged the report merg intimation Ex.P-2 at Police Station: Sukma has stated in his evidence that on the fateful day he was at his residence, his residence is near to the residence of the accused, hearing the noise of quarrel he went to the house of his sister and he saw that the accused was quarrelling with his sister. His father, his wife and younger brother were also there. Mother of the accused Magamma also reached to the place of occurrence before him. He saw that the accused was sitting on the chest of his sister, he was holding iron sickle in one hand and attacked with the same on the neck of his sister. When mother of the accused Magamma tried to intervene, he attacked Magamma also on her neck, back and head with the same sickle, blood started oozing out of the injuries of Magamma and she ran away. Lali was writhing in pain. When he, his father and brother went to intervene, the accused said, "If you people will intervene, then I will kill you also". Therefore, they were watching the incident from outside. Lali succumbed to the injuries sustained by her. He gave merg intimation Ex.P-2 to the Police and based on that, the report Ex.P-1 was registered. Panchnama of the body of Lali (Ex.P-3) was prepared by the Police.

Munnibai (PW-3) has corroborated the evidence of PW-1 and stated in her evidence that on hearing the screams of Lali she went there and saw that the accused was attacking Lali on her neck with sickle while sitting on the chest of Lali. He also attacked Magamma on forehead, neck and back with the same sickle.

Bantal Swami (PW-10), another brother of deceased Lali, has also corroborated the evidence of PW-1. Bantal Leela (PW-11), father of the deceased has also corroborated the evidence of Pardeshiram Nag (PW-1).

[पीछे देखिये

(13)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक D.A.357/95 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The evidence of these eyewitnesses further stands corroborated by the evidence of Dr. R.K. Kuruvanshi (PW-12) who conducted post-mortem on the body of Lali and has stated that there were four injuries on left & right cheeks and neck. He has stated that Lali died on account of neck injury, haemorrhage and shock. He has further stated on 11-3-1993, he examined the injuries of Magamma and found that there was an incised wound on the neck of Magamma in the size of 1" x 1/5", an incised wound on left cheek, an incised wound on forehead, an incised wound on parietal region and one more incised wound on chest.

Therefore, in view of this ocular and medical evidence it stands established that the accused attacked Lali with a sickle on her neck and different parts of the body, as a result of which she succumbed to the injuries sustained by her, instantaneously. The accused also attempted to commit the murder of Magamma and Magamma received injuries on vital parts of the body, but she could save herself by running away from the place of occurrence. In the circumstances, we are of the considered opinion that in view of this ample evidence on record, the trial Court has rightly convicted and sentenced the accused/appellant for commission of offence under Sections 302 & 307 of the I.P.C. We do not find any illegality or infirmity in the judgment impugned.

In the result, the appeal is devoid of merit, same is liable to be dismissed and it is hereby dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge

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